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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,406	12/12/2003	Young-sik Huh	1030681-608	9121

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BUCHANAN, INGERSOLL & ROONEY PC  
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EXAMINER
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CASCHERA, ANTONIO A

ART UNIT	PAPER NUMBER
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2628

NOTIFICATION DATE	DELIVERY MODE
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03/18/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,406	<b>Applicant(s)</b> HUH ET AL.	
	<b>Examiner</b> Antonio A. Caschera	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-24 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-22, 24, 40 and 42 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-18 is/are rejected.
- 7) ☒ Claim(s) 23 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/14/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in the pending application.

### ***Claim Objections***

2. Claims 12, 23 and 41 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

In reference to claims 12, 23 and 41, these claims recite limitations that are already found in their dependent "parent" claims, claims 1, 19 and 40 respectively, and therefore do not further limit their "parent" claims. For example, claim 1 recites the limitation of the type payload indicating one of color temperature value when the flag comprises information indicating color temperature and the chromaticity coordinate value when the flag comprises information for indicating the chromaticity coordinate value since claim 1 already defines the purpose of the flag to indicate what data in the type payload is. Also, claims 19 and 40 already recite similar to the above language with reference to rejected claims 23 and 41 respectively. In addition, claims 19 and 40 also already recite the illumination block comprising numerical data (19) of Lux (40).

### ***Claim Rejections - 35 USC § 101***

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35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-7 and 10-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 1-7 and 10-18 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions<sup>2</sup> indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, at least the obtaining step of the claims is not explicitly recited as tied to another statutory category that accomplishes the claimed method step (see *Response to Arguments* below).

#### ***Allowable Subject Matter***

4. Claims 19-22, 24, 40 and 42 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

<sup>2</sup> *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

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In reference to claim 19, the prior art of record does not explicitly disclose obtaining illumination characteristics around a display generating a type block and illuminance block, wherein the type block comprises a flag indicating whether a type payload is a color temperature value or a chromaticity coordinate value and wherein the illuminance block comprises a numerical value in units of Lux having a value equal to or greater than zero, in combination with the further limitations of claim 19.

In reference to claims 20-22 and 24, these claims depend upon allowable claim 19 and are therefore also deemed allowable.

In reference to claim 40, the prior art of record does not explicitly disclose storing illumination characteristics around a display comprising a type block and illuminance block, wherein the type block comprises a flag indicating whether a type payload is a color temperature value or a chromaticity coordinate value and wherein the illuminance block comprises a numerical value in units of Lux having a value equal to or greater than zero, in combination with the further limitations of claim 40.

In reference to claim 42, the prior art of record does not explicitly disclose storing the invention of claim 1 as a program stored on a computer-readable medium.

### ***Response to Arguments***

5. Applicant's arguments, see page 12 of Applicant's Remarks, filed 11/25/08, with respect to the objection of the specification have been fully considered and are persuasive. Therefore, the objection of the specification has been withdrawn since amendments to the claims now positively recite what is stated within the specification.

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6. Applicant's arguments, see pages 13-14 of Applicant's Remarks, filed 11/25/08, with respect to the rejection(s) of claim(s) 1-7, 10, 11, 16, 19-22, 40 and 42 under 35 USC 103(a) in view of Nakabayashi et al. and Van Hook et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn since allowable subject matter has been included in the independent claims.

7. Applicant's arguments filed 11/25/08 have been fully considered but they are not persuasive.

In reference to the 35 USC 101 rejection of claims 1-7 and 10-18, Applicant argues that the recited of the claims already ties the at least one step of the method type claims to another statutory category (see page 13 of Applicant's Remarks).

The Examiner disagrees and states, according to the Office's current practices and procedures regarding 35 USC 101 and method type claims, the current claim language is not sufficient to overcome the rejection. In particular, although the claim does mention "obtaining predetermined illumination...around the image display device" (see lines 3-4 of claim 1), the particular step of "obtaining" is not explicitly recited as being tied to another statutory category. In other words, the illumination data is obtained around a display device however it is not recited that the actual display device performs such obtaining of data. The display device does not "accomplish[es] the claimed method step[s]" and therefore is not sufficient to overcome the 35 USC 101 rejection. Therefore, the Examiner maintains the previous 35 USC 101 rejection of these claims.

### ***Conclusion***

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**571-273-8300 (Central Fax)**

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

Primary Examiner, Art Unit 2628

**3/16/09**